

# Senate File 408 - Introduced

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO SF 294)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act providing for motor fuel containing biodiesel, providing  
2 for tax credits, making penalties applicable, and including  
3 effective date and applicability provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 2135SV 83  
6 da/rj/14

PAG LIN

1 1 DIVISION I  
1 2 BIODIESEL FUEL STANDARD  
1 3 Section 1. Section 214A.2, subsection 4, paragraph b,  
1 4 subparagraph (2), Code 2009, is amended by striking the  
1 5 subparagraph.  
1 6 Sec. 2. NEW SECTION. 214A.2C STANDARD FOR DIESEL FUEL ==  
1 7 BIODIESEL REQUIRED.  
1 8 1. A retail dealer shall not advertise for sale or sell  
1 9 diesel fuel in this state, unless it is biodiesel fuel.  
1 10 2. a. Subsection 1 does not apply to any of the  
1 11 following:  
1 12 (1) Motors located at an electric generating plant  
1 13 regulated by the nuclear regulatory commission. This  
1 14 exception shall no longer apply thirty days after the nuclear  
1 15 regulatory commission approves the use of biodiesel fuel in  
1 16 motors at electric generating plants.  
1 17 (2) Railroad locomotives.  
1 18 (3) Off-road logging equipment and machinery.  
1 19 (4) Vehicles and equipment used exclusively on an aircraft  
1 20 landing field.  
1 21 b. This subsection is repealed on July 1, 2012.  
1 22 Sec. 3. NEW SECTION. 214A.2D STANDARD FOR DIESEL FUEL ==  
1 23 BIODIESEL DESIGNATIONS.  
1 24 1. A retail dealer shall not advertise or sell biodiesel  
1 25 blended fuel unless it is designated B=5 or higher as  
1 26 specified in section 214A.2.  
1 27 2. The biodiesel blended fuel designation provided in  
1 28 subsection 1 shall increase in two threshold periods as  
1 29 follows:  
1 30 a. For the first threshold period, beginning on July 1,  
1 31 2012, and ending June 30, 2015, the biodiesel blended fuel  
1 32 must be designated B=10 or higher as specified in section  
1 33 214A.2.  
1 34 b. For the second threshold period, beginning on July 1,  
1 35 2015, the biodiesel blended fuel must be designated B=20 or  
2 1 higher as specified in section 214A.2.  
2 2 3. a. Notwithstanding subsection 2, a retail dealer is  
2 3 not required to advertise for sale or sell biodiesel blended  
2 4 fuel designated as higher than B=5 during the cold weather  
2 5 months beginning November 1 and ending March 31.  
2 6 b. The department may issue a cold weather suspension  
2 7 order that suspends the application of paragraph "a" during  
2 8 some or all of a threshold period and establish one or more  
2 9 temporary biodiesel blended fuel designations applicable for  
2 10 the period so long as a biodiesel blended fuel designation is  
2 11 not less than B=5 and not more than the biodiesel blended fuel  
2 12 designation that would otherwise apply during the threshold  
2 13 period. The cold weather suspension order shall be published  
2 14 in the Iowa administrative bulletin and take effect as  
2 15 provided by the department. Prior to issuing the order, the

2 16 department shall consult with the committee.

2 17 4. a. The department may issue a threshold suspension  
2 18 order suspending the application of a biodiesel designation  
2 19 during a threshold period as provided in subsection 2, if the  
2 20 department determines that any of the following apply:

2 21 (1) Less than five percent of the biodiesel blended fuel  
2 22 expected to be sold in this state during the applicable  
2 23 threshold period will be produced from a nontraditional  
2 24 feedstock which is a biological resource other than an  
2 25 agricultural resource traditionally grown or raised in the  
2 26 state, including but not limited to algae cultivated for  
2 27 biofuels production, waste oils, and tallow.

2 28 (2) No specification established by the United States  
2 29 environmental protection agency or A.S.T.M. international  
2 30 applies to the biodiesel designation required during the  
2 31 applicable threshold period.

2 32 b. The threshold suspension order shall apply during some  
2 33 or all of a threshold period and may establish one or more  
2 34 temporary biodiesel blended fuel designations applicable for  
2 35 the period of suspension so long as the temporary biodiesel  
3 1 blended fuel designation is not less than B=5 and not more  
3 2 than the biodiesel blended fuel designation that would  
3 3 otherwise apply during the threshold period. The threshold  
3 4 suspension order shall be published in the Iowa administrative  
3 5 bulletin and take effect as provided by the department. Prior  
3 6 to issuing the threshold suspension order, the department  
3 7 shall consult with the committee.

3 8 5. The department may issue a threshold suspension order  
3 9 suspending the application of a biodiesel designation for a  
3 10 motor under the control of the nuclear regulatory commission  
3 11 during a threshold period, if the nuclear regulatory  
3 12 commission has not approved the use of the biodiesel  
3 13 designation required during that threshold period. The  
3 14 threshold suspension order shall be published in the Iowa  
3 15 administrative bulletin and take effect as provided by the  
3 16 department. Prior to issuing the threshold suspension order,  
3 17 the department shall consult with the committee.

3 18 6. The governor may by executive order adjust the  
3 19 biodiesel blended fuel designation as provided in this  
3 20 section, if the governor determines that there exists a major  
3 21 disparity between the price of biodiesel blended fuel and  
3 22 diesel fuel, there is a significant shortage of biodiesel fuel  
3 23 supplies in this state, or a systemic market change will cause  
3 24 material economic hardship to retail dealers who advertise and  
3 25 sell biodiesel blended fuel in this state which can be  
3 26 alleviated by adjusting the biodiesel blended fuel. The  
3 27 adjusted biodiesel blended fuel designation shall not be less  
3 28 than B=5 and not more than the biodiesel blended fuel  
3 29 designation that would otherwise apply during the applicable  
3 30 threshold period. The executive order shall provide for the  
3 31 termination of the adjusted biodiesel blended fuel designation  
3 32 by a date certain. After the executive order's termination,  
3 33 the biodiesel blended fuel designation shall be restored to  
3 34 the amount required for the applicable threshold period.

3 35 Sec. 4. EMERGENCY RULES. The department of agriculture  
4 1 and land stewardship shall adopt emergency rules under section  
4 2 17A.4, subsection 3, and section 17A.5, subsection 2,  
4 3 paragraph "b", to implement the provisions of sections 214A.2C  
4 4 and 214A.2D, as enacted in this Act, and the rules shall be  
4 5 effective July 1, 2009. Any rules adopted in accordance with  
4 6 this section shall also be published as a notice of intended  
4 7 action as provided in section 17A.4.

4 8 Sec. 5. EFFECTIVE DATE. This division of this Act takes  
4 9 effect on July 1, 2009, except for the provisions authorizing  
4 10 the department of agriculture and land stewardship to adopt  
4 11 emergency rules and to publish a notice of intended action to  
4 12 implement the provisions of sections 214A.2C and 214A.2D, as  
4 13 enacted in this Act, which, being deemed of immediate  
4 14 importance, take effect upon enactment.

#### 4 15 DIVISION II

#### 4 16 BIODIESEL FUEL LABELING

4 17 Sec. 6. Section 214A.2, subsection 5, Code 2009, is  
4 18 amended to read as follows:

4 19 5. Ethanol blended gasoline shall be designated E=xx where  
4 20 "xx" is the volume percent of ethanol in the ethanol blended  
4 21 gasoline and biodiesel blended fuel shall be designated B=xx  
4 22 where "xx" is the volume percent of biodiesel.

4 23 Sec. 7. Section 214A.16, subsection 1, Code 2009, is  
4 24 amended to read as follows:

4 25 1. a. If motor fuel containing a renewable fuel ethanol  
4 26 blended gasoline is sold from a motor fuel pump, the pump

4 27 shall have affixed a decal identifying the ~~name of the~~  
~~4 28 renewable fuel ethanol blended gasoline. The decal shall be~~  
~~4 29 different based on the type of renewable fuel dispensed. If~~  
4 30 the motor fuel pump dispenses ethanol blended gasoline  
4 31 classified as higher than standard ethanol blended gasoline  
4 32 pursuant to section 214A.2, the decal shall contain the  
4 33 following notice: "FOR FLEXIBLE FUEL VEHICLES ONLY".  
4 34 b. If biodiesel fuel is sold from a motor fuel pump, the  
4 35 pump shall have affixed a decal identifying the biodiesel fuel  
5 1 as provided in 16 C.F.R. pt. 306.

5 2 DIVISION III

5 3 BIODIESEL BLENDED FUEL TAX CREDIT

5 4 Sec. 8. Section 422.33, subsection 11C, Code 2009, is  
5 5 amended by striking the subsection.

5 6 Sec. 9. 2006 Iowa Acts, chapter 1142, section 49,  
5 7 subsection 5, is amended by striking the subsection.

5 8 Sec. 10. Section 422.11P, Code 2009, is repealed.

5 9 Sec. 11. APPLICABILITY. The sections of this division of  
5 10 this Act striking section 422.33, subsection 11C, striking  
5 11 2006 Iowa Acts, chapter 49, subsection 5, and repealing  
5 12 422.11P, apply to a taxpayer claiming a biodiesel tax credit  
5 13 for sales of biodiesel blended fuel sold or dispensed on or  
5 14 after the effective date of this division of this Act.

5 15 EXPLANATION

5 16 DIVISION I == BIODIESEL FUEL STANDARD. This bill applies  
5 17 to the retail sale of diesel fuel as regulated by the  
5 18 department of agriculture and land stewardship under Code  
5 19 chapter 214A, and specifically biodiesel fuel derived from  
5 20 vegetable oils or animal fats that meet departmental standards  
5 21 (Code section 214A.2). Biodiesel fuel is designated by "B=xx"  
5 22 where "xx" is the volume percent of biodiesel by volume.  
5 23 Currently, all biodiesel fuel must be at least B=1 (Code  
5 24 section 214A.2).

5 25 A retail dealer is prohibited from advertising for the sale  
5 26 or selling diesel fuel unless it is biodiesel fuel. The bill  
5 27 provides for a number of exceptions, including for motors  
5 28 located at an electric generating plant regulated by the  
5 29 nuclear regulatory commission, locomotives, off-road logging  
5 30 equipment and machinery, and vehicles and equipment used  
5 31 exclusively on an aircraft landing field.

5 32 Under the bill, the lowest designation of biodiesel blended  
5 33 fuel that can be marketed is B=5. The bill provides for two  
5 34 threshold periods which require that an increasing percentage  
5 35 of biodiesel be included in the biodiesel blended fuel. The  
6 1 first threshold period, beginning on July 1, 2012, and ending  
6 2 June 30, 2015, requires that biodiesel blended fuel must be  
6 3 B=10 or higher and the second threshold period beginning on  
6 4 July 1, 2015, requires that biodiesel blended fuel be B=20 or  
6 5 higher.

6 6 The bill also provides a number of exceptions. First, a  
6 7 retail dealer is not required to market biodiesel blended fuel  
6 8 designated as higher than B=5 during the cold weather months  
6 9 beginning November 1 and ending March 31, unless the  
6 10 department issues a cold weather suspension order for some or  
6 11 all of those months. The cold weather suspension order may  
6 12 establish a temporary biodiesel designation for the period of  
6 13 the suspension. Secondly, the department may issue a  
6 14 temporary order suspending a threshold period under two  
6 15 conditions: (1) less than 5 percent of the biodiesel blended  
6 16 fuel expected to be sold in this state during the applicable  
6 17 threshold period will be produced from a nontraditional  
6 18 feedstock, or (2) no specification established by the United  
6 19 States environmental protection agency or A.S.T.M.  
6 20 international applies to the biodiesel designation. The  
6 21 department may issue a threshold suspension order that applies  
6 22 during some or all of a threshold period and may establish one  
6 23 or more temporary biodiesel fuel designations applicable for  
6 24 the period. The bill also provides that the department may  
6 25 suspend the biodiesel fuel standard for motors under the  
6 26 control of the nuclear regulatory commission.

6 27 The bill also provides that the governor may by executive  
6 28 order adjust the biodiesel blended fuel designation under any  
6 29 of three circumstances: (1) a major disparity exists between  
6 30 the price of biodiesel blended fuel and diesel fuel; (2) there  
6 31 is a significant shortage of biodiesel fuel supplies in this  
6 32 state; or (3) a systemic market change will cause material  
6 33 economic hardship to retail dealers. The governor must  
6 34 establish an adjusted biodiesel blended fuel designation  
6 35 during the applicable threshold period.

7 1 EMERGENCY RULEMAKING AND EFFECTIVE DATE. The bill  
7 2 authorizes the department of agriculture and land stewardship

7 3 to adopt rules by emergency and by notice of intended action  
7 4 in order to implement the biodiesel fuel requirements. The  
7 5 provision takes effect upon enactment.  
7 6 DIVISION II == BIODIESEL FUEL LABELING. The bill provides  
7 7 that a retail dealer who sells biodiesel fuel must affix a  
7 8 decal to the motor fuel pump identifying the biodiesel fuel  
7 9 when it contains a certain percentage of biodiesel as provided  
7 10 by federal law, and specifically the federal trade commission.  
7 11 The bill eliminates a state requirement that provides for the  
7 12 general labeling of biodiesel fuel sold at motor fuel pumps  
7 13 that contain any biodiesel.  
7 14 DIVISION III == BIODIESEL BLENDED FUEL TAX CREDIT. The  
7 15 bill eliminates provisions for a biodiesel blended fuel tax  
7 16 credit available to a retail dealer of biodiesel blended fuel.  
7 17 APPLICABLE PENALTIES. A person who violates a provision of  
7 18 Code chapter 214A is guilty of a serious misdemeanor with each  
7 19 day of a continuing violation consisting of a separate  
7 20 offense. The state may also proceed against a person who  
7 21 violates the Code chapter by bringing a civil enforcement  
7 22 action as a contested case proceeding under Code chapter 17A  
7 23 in lieu of a prosecution. A serious misdemeanor is punishable  
7 24 by confinement for no more than one year and a fine of at  
7 25 least \$315 but not more than \$1,875. The civil penalty shall  
7 26 be for at least \$100 but not more than one \$1,000 for each  
7 27 violation.  
7 28 LSB 2135SV 83  
7 29 da/rj/14